

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1390  
Committee Substitute Favorable 5/7/09  
Third Edition Engrossed 5/14/09

Short Title: Wills/Bequests to Drafting Attorney.

(Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO RENDER VOID ANY BEQUEST OR DEVISE IN A WILL TO THE ATTORNEY WHO DRAFTED THE WILL UNLESS THE ATTORNEY IS A RELATIVE OF THE TESTATOR, AND TO REQUIRE ATTORNEYS WHO DRAFT A WILL OR CODICIL TO STATE THEIR NAME ON THE DOCUMENT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 31 of the General Statutes is amended by adding a new section to read:

**"§ 31-4.1. Attorneys as beneficiaries.**

An attorney who drafts an attested written will, or a codicil to an attested written will, may not be a beneficiary under that will or codicil, regardless of whether the attorney receives compensation for preparing the will or codicil, unless the attorney is a relative of the testator within five degrees of kinship, a present or former spouse of the testator, or a parent, sibling, or child of the testator's present or former spouse. Any bequest or devise to an attorney in violation of this section shall be void. A designation of the attorney in a fiduciary role is neither a bequest nor a devise within the meaning of this section.

An attorney who drafts an attested written will, or a codicil to an attested written will, under which the attorney is a beneficiary, shall attach to the will or codicil an affidavit certifying that the attorney is in compliance with the provisions of this section.

Nothing in this section prevents an attorney from being a beneficiary under a codicil to a will if the codicil was not drafted by that attorney."

**SECTION 2.** Chapter 31 of the General Statutes is amended by adding a new section to read:

**"§ 31-4.2. Attorney's name on will or codicil.**

An attorney who drafts an attested written will or a codicil to an attested written will must have his or her name and business address affixed to the instrument and indicate that he or she is the drafter."

**SECTION 3.** This act becomes effective January 1, 2010, and applies to wills and codicils executed on or after that date.

